



Montana Fish, Wildlife & Parks

Rt 1-4210
Glasgow MT 59230
December 5, 2000

*Phillips
County*

Ladies and Gentlemen,

You recently received documents relating to the Montana Fish, Wildlife & Parks (FWP) proposal to purchase a conservation easement on 4,489 acres of land owned by John Cowell (Cowell Ranch). This property is located approximately 50 miles south of Malta, MT.

Enclosed please find the Decision Notice for the Cowell Ranch Conservation Easement. Based on comments there was no change made to the Draft EA, Management Plan, and Socio-Economic Assessment so the draft version of these documents are to be considered the final draft.

Forty-one comments were received regarding the proposal. These comments are summarized in the Decision Notice. There were no issues raised regarding the potential impacts of this easement that would cause the department not to move forward with the proposal. It is my recommendation, therefore, that FWP purchase a conservation easement on the Cowell Ranch subject to approval by the FWP Commission. Because the Bureau of Land Management was involved in developing the grazing plan and will be partners in the grazing plan implementation on public land, their letter is included as an attachment to this Decision Notice.

The Commission will be asked to approve the purchase of this easement at their next meeting, which is scheduled for December 14, 2000.

If you have any questions regarding this proposal, please contact me at the Glasgow office, 228-3704.

Sincerely,

Jim Satterfield
Region 6 Supervisor

DECISION NOTICE COWELL RANCH EASEMENT ACQUISITION

**Prepared by Region 6, Montana Fish, Wildlife & Parks
December 4, 2000**

Proposal

Montana Fish, Wildlife & Parks (FWP) proposes to purchase and monitor a conservation easement on 4489 acres of land owned by John Cowell. The ranch is located approximately 50 miles south of Malta, MT along the north side of the Missouri River Breaks. The total purchase price of this easement is \$360,000.

A rest rotation grazing plan for livestock was developed for the Cowell Ranch and adjacent grazing leases on the Bureau of Land Management and State School Trust lands. John Cowell, FWP, and the BLM mutually developed this plan with input from the Department of Natural Resources and Conservation. The cost of setting up this grazing system is approximately \$100,000 and would be funded by the Department's Habitat Program, Sikes Act Dollars and the BLM.

The specific terms of the easement in their entirety are contained in a separate legal document, which is the "Deed of Conservation Easement." This document lists FWP's and the landowners' rights under the terms of the easement as well as restrictions on landowner activities. The rights of both parties and restrictions on landowner activities were negotiated with and agreed to by FWP and the landowner. The intent of these rights and restrictions is to preserve important wildlife habitats in perpetuity while maintaining the agricultural and public recreational uses, which have occurred on the land.

MONTANA ENVIRONMENTAL POLICY ACT PROCESS

FWP is required to assess the impacts of the proposal to the human and physical environment. The Cowell Ranch Easement proposal and its effects were documented by FWP in an Environmental Assessment (EA) to satisfy the Montana Environmental Policy Act (MEPA).

A 31-day comment period on the EA ran from October 20, 2000, to November 20, 2000. Articles and legal notices of the proposed action ran in area newspapers and a public hearing was held upstairs at the First State Bank in Malta on November 2, 2000. Approximately 90 copies of the Environmental Assessment were mailed or delivered to adjacent landowners, sportsman groups, government agencies, and other interested parties. Information on this easement was also sent out to hunters who had hunted on this ranch during the past two years and a copy of the easement could be viewed on FWP's website.

A total of 120 copies were printed and made available to the general public for review. In addition, both John Cowell and FWP personnel met with the Phillips County Commissioners and adjacent landowners to discuss this project.

ISSUES RAISED IN THE ENVIRONMENTAL ASSESSMENT (EA)

The EA lists the issues in detail. These include effects of the proposed conservation easement and potential consequences if the easement were not obtained. The primary issue is to protect threatened habitats, particularly riparian and sagebrush grassland habitats. Other issues addressed by the project will be improvement of conditions for livestock and wildlife production by developing and implementing rest-rotation grazing, prohibiting sagebrush control or manipulation, the prevention of subdivision and residential and commercial development, and guaranteeing, in perpetuity, annual public hunting opportunities.

SUMMARY OF PUBLIC COMMENTS

The Department received a total of 41 comments, including 37 written comments, and 4 oral comments offered as testimony at the public meeting. Approximately 25 people attended the public meeting and 3 of the 4 people who gave oral comments were either in favor of the easement or were neutral. Thirty-three of the thirty-seven written comments favored the proposal. Fifteen individuals supporting this project signed one comment letter. The many favorable comments centered on the need to protect areas along the Missouri River Breaks from development, maintain ranching on this land, improve the land through rest rotation grazing, and maintaining hunting access to this land in perpetuity.

Three of the four negative comments received were against conservation easements in general and felt there were too many restrictions in the easement (two of these comments, one oral and one written, were by the same individual). One person felt the Department should be buying the land in fee title, not an easement and two comment letters stated that the easement did not go far enough in restricting landowner activities on this land.

COMMENTS

The following agencies or organizations provided letters of support for the conservation easement on the Cowell Ranch: The Nature Conservancy, The Fish and Wildlife Service, and the Bureau of Land Management. The Phillips County Commissioners were neutral concerning this project in oral testimony given by Commissioner Frances Jacobs. Since the Bureau of Land Management was a partner in developing the grazing plan, their letter is included as an attachment to this Decision Notice.

Issues raised concerning this easement and the Departments response follows.

Issue 1. FWP should buy this land rather than purchase a conservation easement.

Response: Mr. Cowell has not expressed an interest in selling this land to FWP. A fee title purchase would also be more costly, have high annual maintenance costs, and would be unacceptable to adjacent landowners and the Phillips County Commissioners. A conservation easement on this land will protect and enhance wildlife habitat and ensure public hunting opportunities while keeping the land in private ownership.

Issue 2. The easement results in too much government control of the land and private property rights on this land will be lost forever.

Response: One of the goals of this easement is to maintain this land as a working cattle ranch. The landowners rights will include: The right to graze cattle in accordance with the rest rotation grazing system described in the management plan; the right to regulate the public use of this land at all times, while allowing access for 165 hunters for 500 hunter days; the right to develop and maintain water resources; the right to construct, remove, renovate, repair, or replace fences, roads and other nonresidential improvements necessary for accepted land management practices; the right to build up to three residences, barns, corrals, and other improvements at three 10-acre sites; and the right to develop two 5-acre gravel pits for use on the ranch.

Issue 3. It appears that this proposal was based primarily on hunter access rather than habitat protection.

Response: Maintaining and enhancing the habitat for all wildlife species is the primary purpose of this easement. Since this ranch lies at the transition between the rolling sagebrush prairie and the Missouri River Breaks, a wide variety of wildlife species are found on this ranch. FWP is especially concerned about sage grouse and most of this ranch provides good sage grouse habitat. Sage grouse are commonly observed on this land and in spring, 1999, one hundred seventy three sage grouse were counted on 4 sage grouse leks within 4 miles of this ranch. Small groups of adult male sage grouse have been repeatedly observed on the Cowell Ranch in spring and fall indicating that there may be an unknown sage grouse lek on the ranch.

Threats to the habitat on this ranch include sagebrush control by fire, and by mechanical and chemical treatments. Sagebrush has already been eradicated in many areas of South Phillips County. Subdivision for recreational purposes is also a very real possibility and would likely occur if this easement fails to be approved.

Issue 4. The benefits of prohibiting sagebrush control or manipulation and rest rotation grazing systems for sage grouse are poorly documented. Creating smaller pastures and water developments could have detrimental affects on sage grouse populations.

Response: The Guidelines for Management of Sage Grouse Populations and Habitats (Connelly et al. In press) state that "sagebrush dominated rangelands with a healthy herbaceous understory are critical for survival of sage grouse populations." The

easement provisions protect the sagebrush grasslands on the Cowell Ranch. The rest rotation grazing system will improve the herbaceous understory by controlling timing of grazing disturbance and will guarantee that a third the land is rested throughout the entire grazing season. Currently this entire ranch is grazed from mid April to mid October. In many years very little residual cover is available in the spring for upland nesting birds.

The only water developments planned are a well and pipeline. The developments are crucial to improving range management on this land since reservoirs on the ranch do not provide a dependable source of water during drought conditions. These developments will be installed with minimum disturbance to the land. Most of the fencing involves the removal and replacement of existing fences. There will be very little net increase in the miles of fences on this ranch. Each of the three pastures will consist of a minimum of 3,000 acres.

Issue 5. The easement allows for the construction of roads for ranching purposes, the construction of up to three 10-acre residential sites, two 5-acre gravel pits, and a private fishpond, all of which could have significant impacts on sagebrush and sage grouse populations.

Response: All of the above rights were negotiated with the private landowner and the vast majority of FWP easements include the same provisions. Currently there are no buildings on this ranch and no gravel pits. If all three residential sites and the two gravel pits were someday constructed these developments would constitute less than 1% of the deeded land on this ranch. If one includes the public land within the ranch boundaries, less than 0.5% of the total land area would be affected. If this easement fails to be approved it is extremely likely that this land would be subdivided for recreational purposes and there would be no limitations on development of this land.

Issue 6. The easement does not adequately protect prairie dogs and associated species, especially reintroduction of black footed ferrets. The conservation easement terms are not consistent with the draft Montana Prairie Dog Working Group Management Plan

Response: The two prairie dog towns on the Cowell Ranch are small isolated towns far removed from any prairie dog town complexes and, as a result, are not considered suitable habitat for black footed ferrets (John Grensten, BLM, pers. comm.). Prairie dog towns of this size on private land are relatively easy to eliminate through poisoning. This easement would prevent the purposeful eradication of these towns by using the most recently measured acreage (156 acres) as the minimum prairie dog town size. Recreational shooting is allowed unless the prairie dog towns drop to 25% below their 1998 level since shooting has not been shown to be an effective means of eliminating prairie dog populations. Recreational shooting has always been allowed on this ranch and yet these two prairie dog towns expanded from 43 acres in 1988 to 156 acres in 1998, an increase of 362% (John Grensten, BLM, pers. comm.).

Since the alternative to this easement would be no protection of prairie dogs on this land and the possible elimination of these towns by poisoning, both FWP and the BLM

believe that the current easement provisions are consistent with the objectives of the Prairie Dog Working Group.

Issue 7. The access cap provisions in the easement should not apply to access to public lands.

Response: There is no "access cap" provision in the easement. The access numbers provide for a minimum of 500 hunter days on deeded land. If this easement is approved Mr. Cowell will work with the BLM to establish public access through his land to the CMR and BLM Burnt Creek Wilderness Study Area.

DECISION

Utilizing the EA and public comment, a decision must be rendered by FWP which addresses the concerns and issues identified for this proposed easement.

Both FWP analysis and the vast majority of public input support preserving the existing land uses of the Cowell Ranch property. This land lies at the transition of the rolling prairie and Missouri River Breaks and is inhabited by a wide variety of wildlife species and has had a tradition of public recreation. All of these resources may be threatened by land use changes, which are presently occurring throughout Montana and in the vicinity of the proposal. The proposed conservation easement on the property would guarantee and maintain, in perpetuity, historical uses by wildlife, ranchers, and the public.

Five percent of the public comment felt that the easement resulted in too much government control of this land. Another five percent of public comment felt that the easement did not go far enough in restrictions on landowner activities. Since 90% of the public comment found the current easement terms acceptable, no revisions were made to the Draft Environmental Assessment, which will therefore serve as the Final Environmental Assessment.

After review of this project and the corresponding public comments, it is my recommendation to purchase a conservation easement on the Cowell Ranch, subject to approval by the Fish, Wildlife and Parks Commission.



Jim Satterfield
Region-6 Supervisor
December 4, 2000